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No. 952

In the

Supreme Court of the United States

OCTOBER TERM, 1967.

VILLAGE OF MIDLOTHIAN,
A Municipal Corporation,

Plaintiff-Respondent,

vs.

VILLAGE OF ROBBINS,
A Municipal Corporation,

Defendant-Petitioner.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT AND THE SUPREME COURT OF ILLINOIS

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The Petitioner has not been denied due process or equal protection of the laws.

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OPINION BELOW

The statement by Petitioner that no formal opinion was entered by the Circuit Court, Chancery Division of Cook County is erroneous. The Chancellor entered a formal decree in this case making findings of fact and conclusions of law, which is to be found at Pages 101 through 107 of the record herein and was abstracted by the Petitioner here in his Abstract to the Appellate Court of Illinois (Case 50849 at Pages 35 through 42).

RESTATEMENT OF THE QUESTION PRESENTED

Where the Supreme Court of Illinois refuses to review a decision of the Appellate Court of that State affirming a decree of the Circuit Court of Cook County, which sustained a Master's Report making findings as to fact and law, that a contract for water between two municipal corporations was impossible of performance and required recission in order for the contracting parties to be enabled to furnish a safe adequate supply of water for their citizens, and on Motion for Reconsideration of that decision again denies the review, has the unsuccessful litigant been deprived of "due process of law" or "equal protection of the law" merely because it contends that there has been an erroneous interpretation of Illinois law as applied to the contract?

ADDITIONS AND CORRECTIONS IN THE STATEMENT OF FACTS

The following are excerpts from the contract between the parties which was involved in this litigation, which we believe are material to the decision and which were omitted by Petitioner (Petition Pages 4 and 5).

Page of Record

7 WITNESSETH:

Whereas, Midlothian and Robbins are Municipal Corporations located within the Sanitary District of Chicago and are desirous of securing a supply of water for the needs of their respective inhabitants; and

Whereas, the water supply now used by said Midlothian and Robbins is purchased from the City of Blue Island, Cook County, Illinois, and Robbins is desirous of obtaining a supply of water from Chicago, and Midlothian is desirous of obtaining a supply of water from Robbins, and

Whereas, the City of Chicago and the Village of Robbins have entered into an agreement bearing the date of the 7th day of July, 1953, for the furnishing by the City of Chicago to Robbins of a supply of water from Chicago's water main at 119th Street and Rockwell Street for a period of Ten Years, and the water main of Robbins to the aforementioned connecting point is of sufficient size to afford Robbins and ample reserve above its present needs and Midlothian does not have a water main between its territory and the Chicago City limits through which to draw a supply of water; and

Whereas, Robbins has secured the consent in writing of the City Council of the City of Chicago, Cook County, Illinois, to sell water to Midlothian, and

Whereas, Robbins is willing to sell to Midlothian and Midlothian is willing to purchase a supply of water from Robbins;

Now Therefore, in consideration of the mutual covenants and agreements hereinafter set forth, Midlothian and Robbins agree with each as follows: . . . ."

• • •

"12. Robbins shall maintain and keep in efficient operation its water main from the City of Chicago connection to the point where Midlothian shall connect its mains to Robbins."

• • •

The following findings and conclusions of the Master, who was present at the examination of witnesses and was the trior of the facts, have been omitted,

(Petition Pages 5 through 7):

57 5) Prior to the entry into the contract the Defendant village procured an engineering report from Walter Wilson in which the population of each of the contracting villages was estimated for each of the years 1953 through 1983 and based on those population estimates the water needs of each of the villages was estimated for each of those years. These

estimates projected the population of Midlothian to a maximum of 7,730 in 1983 and projected the water needs of that village at a maximum daily average of 535,000 gallons by 1983. The report of the engineer recommended the installation of a twelve inch line connecting the Robbins water supply directly with the City of Chicago water supply, which line it was estimated would supply a maximum of 1,600,000 gallons per day. This was the estimated maximum which was projected as the combined needs of both villages by 1983."

9) The Defendant, Village of Robbins, in order to protect its own water supply had on occasions prior to 1962 shut off the supply of water to Midlothian and Midlothian secured an injunction requiring Robbins to leave its valves open at all times. After the injunction was served upon Robbins, its officials left all valves open, which admitted water from Chicago and permitted Midlothian to acquire water from Rob-
59 bins so that the amount of water delivered to Midlothian during the period subsequent to 1962 is the maximum amount available from the Robbins water supply. During the period Midlothian left all its valves open at all times and took all the water from Robbins which the Robbins system could supply it.

10) Midlothian, Plaintiff village, attempted to assist Defendant village in correcting the inadequacies of the Defendant's system by the expenditure of Five Thousand ($5,000.00) Dollars on Defendant's system in installing a new 500 gallon per minute pump, rewiring Defendant's pump house, hooking up its chlorinator and rebuilding and reinstalling a second pump in the Robbins system.

12) Engineering reports prepared by Consoer Townsend & Associates disclose that the safe amount of water to be drawn by Robbins from the City of Chicago supply main would be 1,380,000 gallons per day. This report was examined by two qualified independent engineers hired for that purpose who

stated that in their opinion the computations used in arriving at this conclusion were accurate and the
60 conclusion sound. This testimony is buttressed by the estimate of Mr. Walter Wilson, who reported at the time of design that the system was capable of delivering 1,600,000 gallons per day and is further buttressed by the usage of water by the two villages which show that they are taking a combined total of 1,600,000 gallons per day. The only evidence to the contrary was one witness for the Defendant who estimated that under certain conditions the Robbins supply could be increased to a maximum of 1,900,000 gallons per day. The conditions under which this is possible were not shown to have existed to the knowledge of this witness and his conclusions were at variance with the manifest weight of the other engineering testimony and the factual situation disclosed by all the evidence.

13) An actual controversy exists between the Plaintiff and the Defendant as to the construction of the contract between them and a determination of their rights and obligations thereunder. The contract between the parties specifically provides that Midlothian is to use Robbins water exclusively during the period of the contract and although not explicitly stated, it is implicit in the contract that Robbins is therefore required to supply all of the water Midlothian needs."

The comments by Petitioner as to supplying Midlothian with water in amounts exceeding the maximum called for by Paragraph 9 of the Contract (Petition Page 7) ignore the fact shown by the contract and found by the Master and the Appellate Court that there were no maximums in the contract after July 8, 1963.

The statements of the Petitioner (Petition Page 8) as to the course of proceedings through the Illinois Courts are very incomplete. For example, the Appellate Court

of Illinois on July 7, 1966, on Motion of the Respondent, Village of Midlothian, first dismissed Robbins appeal which dismissal Order was prematurely reported at 218 N.E. 2nd 496. Thereafter a Petition for Rehearing of that action was filed by Robbins on July 22, 1966; an Amended Petition for Rehearing was filed on July 27, 1966 and an Amendment to the Amended Petition for Rehearing was filed on August 17, 1966. As a result of these documents, the Order dismissing the appeal was vacated until a hearing on the merits of the case could be had. Thereafter an oral argument was had and after consideration on the merits, a unanimous court affirmed the lower court decree. (Appendix B this brief)

Under Illinois procedure only if a constitutional question then exists (Illinois Revised Statutes, 1967, Chapter 110A, Section 317) review by the Illinois Supreme Court may be had as of right, otherwise review must be sought by means of a Petition for Leave to Appeal, (Chapter 110A, Section 315) which will be granted as a matter of sound judicial discretion. (Appendix A this brief) The Petition filed by Robbins contained the language cited in Page 8 of the Petition, but we submit it is not language raising a constitutional question and Petitioner recognized that it did not since the manner of review was not the mode to be used if a constitutional question were presented.

After consideration of this Petition, the Supreme Court of Illinois denied Leave to Appeal. There is no provision in Illinois practice for Petition for Rehearing on this exercise of discretion in denial of Leave to Appeal, but none the less a document entitled Petition for Rehearing was filed by Robbins, and treated by the Court as a Motion for Reconsideration. It was subsequently passed on and denied.

Completely omitted from Petitioner's statement of facts is any reference to Plaintiff's Exhibit #2 which was admitted into evidence, without objection by Robbins, and which reads in part as follows:

August 20, 1953

Honorable President and Board of Trustees
Village of Robbins
Robbins, Illinois

Gentlemen:

On October 1, 1951 I submitted to your Honorable Body a report covering the study of the sanitary sewer and water conditions of your Village. This report embodied an estimate of cost of construction of $945,000.00.

Since that time, your Village has awarded contracts for the construction of the proposed work and have passed an ordinance authorizing and providing for the issuance of $1,135,000.00 Water and Sewer Revenue Bonds for the purpose of defraying the cost of improving and extending the present water works and sewerage systems of your Village.

It becomes necessary at this time that my report of October 1, 1951 be revised and brought up to date. Following is a revised report covering this proposed project.

* * * *

With reference to the Village of Midlothian, I have analyzed its growth as follows, and have discussed same with Mr. Robinson, its Engineer, and we agree with reference to this picture. The population of Midlothian in 1953 is established at 3,250. We have computed a growth table which makes the population of Midlothian 7,730 in 1983.

The Village of Robbins has no storage capacity at this time. It is the intent of the water project to construct a 12" water main starting at 119th Street and

Rockwell Avenue, the City of Chicago limits, at which point this line will connect to a City of Chicago 12" water main. This 12" line will then be laid as follows: in 119th Street West to Kedzie Avenue, thence South on Kedzie Avenue to 135th Street in the Village of Robbins at which point a pumping station and a 250,000 gallon elevated storage tank will be erected. This pumping station will have in it, one 500 gallon per minute pump and one 250 gallon per minute pump.

The design of this 12" line to this point shows the following:

Design of Water Line From Chicago

Elevation Ground at Chicago	63.00
Elevation Ground at Pumping Station	17.00
Difference in Ground Elevations	46.00 feet
Length of line, Chicago to 135th Street and Kedzie Avenue	14,500 feet

Water Needs Per Day

	1953	1982
Robbins	336,000	1,071,000
Midlothian	227,500	535,500
Totals	563,500	1,606,500
Pressure at City of Chicago	25 lbs.	57.95 feet
Drop in Land		46.00 feet
Feet of Head Available		103.95

1952 usage 563,500 galons per day

Maximum day equals 845,000 gallons per day using 16 hours as drawing time this is 1,250,000 gallons per day

Friction loss based on C-140 equals 1.71 feet per 1,000=24.88 feet

Loss in Meter Vault 3 lbs.—6.93

Total Loss 31.81 feet

Balance 72.14 feet

equals pressure available at 135th Street and Kedzie Avenue 31 lbs.

• • •

Maximum Water available through 12" line assuming 25 lbs. pressure at 135th Street and Kedzie Avenue

Feet available for friction loss	46.00	
Loss in Meter Vault	7.00	39.00
Equals per 1,000 feet of pipe	2.68	feet
Equals delivery at 135th Street and Kedzie Avenue	1,600,000 Gallons per 24 hours	

This is equal to Average 1982 day. At which time Robbins will have 1,250,000 gallons storage and Midlothian will have

505,000 gallons storage

1,755,000 gallons storage total.

This is in excess of one day's supply which means that the 12" line will deliver at 135th Street and Kedzie Avenue sufficient water at 25 lbs. pressure to keep the reservoirs full providing the draw from Chicago is made over a 24-hour period, which is the normal method of operation from Chicago.

REASONS FOR DENYING CERTIORARI

A. THE DECISION OF THE ILLINOIS APPELLATE COURT HEREIN, WHICH THE SUPREME COURT OF ILLINOIS REFUSED TO DISTURB, IS A CORRECT INTERPRETATION OF ILLINOIS LAW AND THE DECISION SHOULD HAVE BEEN ANTICIPATED BY THE UNSUCCESSFUL LITIGANT.

The Petitioner in this case seeks review under the pretext of having been denied due process or equal protection of the law by asserting that the decision is contrary to the previous law of this state. Examination of all the authorities cited by him and of the authorities cited in the Opinion, disclose that the Appellate Court of Illinois has construed the contract between the parties in a manner which gives effect to each clause and word used, and which interprets the contract in the light of the intentions of the parties at the time they entered into the contract. The rule of law announced in the cases of *Thomas Hoist Company* v. *William J. Newman Company,* 365 Ill. 160; *Consolidated Coal Co.* v. *Peers,* 150 Ill. 344, and *Telluride Power Transmission Company* v. *Crane,* 208 Ill. 218, relied on by petitioner which is therefore acknowledged as the law of Illinois was followed by the Court in this decision.

Petitioner, however, chooses to ignore those facts which indicate the intention of the parties to this contract and by restricting itself to its interpretation of the facts contends that the courts conclusion is at variance with the prior Illinois law.

The facts existing at the time this contract was entered into are disclosed partially in the introductory paragraphs of the contract to the effect that both parties needed and were willing to purchase a supply of water from the City of Chicago through a water main to be erected by Robbins and maintained by them in return for which

Midlothian agreed to purchase all of the water it needed from Robbins. It was stated by the parties in the contract itself that the water main of Robbins was of sufficient size to afford an ample reserve above its present needs, which main Robbins would keep and maintain in efficient operation.

The size of the main was determined after an engineering study made by Robbins' engineer, which was commenced in 1951 and which estimated the needs of both villages for a period of 30 years from the amended report of 1953. The report estimated the needs of the two villages at 1,600,000 gallons per day in 1983 based on their projected population and designed a main capable of transmitting 1,600,000 gallons per day. From that report it would appear that the main was adequate to service both communities for the proposed 30 year period of the contract. With this report in mind, there was included in the contract a provision that Midlothian would use Robbins water exclusively.

The parties, however, for the first ten year period restricted the maximum amount of water which could be taken by Midlothian to an amount estimated within the anticipated needs of that village for the first ten years and provided for a new maximum amount to be determined after the first ten year period.

The interpretation by the Appellate Court of Illinois took into consideration the parties intentions as disclosed by these clauses which are not repugnant or conflicting, but when read in the light of the whole instrument, disclose the intention of Robbins to be the sole supplier of Midlothian's water and Midlothian's intention to have an adequate supply of water available through the Robbins pipes.

A fact not in contemplation of the parties at the time of entering this contract was the enormous increase in population in the suburban areas around Chicago in the period following the execution of this contract. In 1962 Midlothian authorities, still relying on and intending to get all of their water from Robbins, first secured an injunction against the Robbins authorities preventing them from shutting off valves so that there was a free flow of all water available through the pipe, then assisted in upgrading the Robbins pumping facilities, again with the intention of securing more water from the village to which they were bound to purchase water and only after these steps proved unsuccessful in procuring an adequate supply was examination made of the Robbins transmission main from Chicago and the discovery made that the main would never be large enough to provide an adequate flow of water to provide both villages. It was then, according to the evidence in the case, that the village authorities of Midlothian, by letter, telephone call and finally by face to face meeting, advised Robbins that the parties would be unable to comply with the exclusive provisions of the contract as required in Paragraph 2 of said contract or obtain a new maximum day requirement equal to its needs as required by Paragraph 9 of the contract, since the transmission pipe was then delivering at its peak capacity, and its peak capacity was woefully insufficient. (Record pp. 59-60)

This was the situation which led the Court to interpret the contract considering all its clauses to require Midlothian to use Robbins water exclusively and to excuse Midlothian from the contract since Robbins was unable to supply the needs of Midlothian.

Had the Petitioner in this case been willing to recognize the fact that Paragraph 9 of the contract was limited to

a ten year period; that Midlothian had done everything in good faith necessary to take all of the water available from Robbins exclusively and still protect its water users, and that the report of the engineer hired by it on the basis of which it had awarded contracts for construction of the water main and passed ordinances providing for the payment for same, had shown in unmistakeable terms and figures that the maximum capacity of the main would deprive the villages using the same of an adequate water supply under conditions then existing and applied those facts to the Illinois law, it would have anticipated the ruling of the Illinois courts and freed Midlothian from the exclusive provisions of the contract permitting it to make plans for an adequate water supply.

The complete legal obligation of Robbins to supply all of Midlothian's water needs is found in the four corners of the contract document and the interpretation placed on the contract by the parties themselves disclose their intention. Since the facts existing in 1964, however, disclose that the intention of the parties cannot be carried out, the Court excused performance under Applicable law and this result should have been anticipated by the unsuccessful litigant herein.

The subject matter of this litigation is local to Illinois; the parties are both creatures of the Illinois legislature; the rights of the parties and their duties depend wholly upon the construction to be given the laws of Illinois. In a case coming to the United States Supreme Court on appeal from the Illinois Supreme Courts, the Supreme Court should accept the decision of the State Court on interpretation of state law, *Georgia Ry. Co.* v. *Decatur*, 262 U.S. 432, 43 Supreme Court, 613; *Erie RR* v. *Tompkins*, 58 Sup. Ct. 817; *City of Albertville, Ala.* v. *U. S. F. and G. Co.*, 272 Fed. 2nd 594.

In considering whether it should grant certiorari in this case, the Court should be mindful of its own words in the

case of *Tampa Waterworks* v. *Tampa,* 199 U.S. 539, 26 Supreme Court, 15, at 24:

> "The single question is whether the City of Tampa is bound for 30 years from the date of its agreement (to be permitted certain rates to be charged) even if they have ceased to be reasonable. We are not prepared to say that the Supreme Court of Florida was wrong in deciding that it is not bound."

Likewise here, the Courts of Illinois having decided that the construction of the contract between the parties is such that the contract is impossible of performance and should not deprive Midlothian of water needed for growth for the next 20 years, this Court should deny certiorari and allow the interpretation of state law by the state court to govern the rights of the parties.

Again setting up a straw man for the purpose of knocking him down, the Petitioner argues that the Court proceeded on the rule of priority as between repugnant clauses. Although this could have been the basis for the decision, since the second clause requiring Midlothian to use Robbins water exclusively preceded the ninth clause which provided a maximum for a 10 year period, the Court as the opinion shows (Petition 9A) based its opinion on the fact that Paragraph 9 was no longer operative having expired a year before this case was commenced and that their decision was made so that some meaning could be given to the use of the word "exclusive." Therefore, the contention of the Petitioner that the decision should not have been on the basis of invoking priority as between repugnant clauses is meaningless in a case where that method of interpretation was not used by the court.

The Petitioner also chooses to ignore the uncontradicted testimony (Opinion Petition 5A) to the effect that the mayor of Midlothian had held about three meetings, had made telephone calls and sent four or five letters in an attempt, between 1962 and 1964, to get an increased water supply from Robbins.

The Petitioner attempts to convey the impression that Midlothian acted precipitously by filing this action as soon as the ten year period, mentioned in Paragraph 9, had expired. Petitioner's argument here, as his entire argument on the interpretation of this contract, is an attempt to re-write history and change the facts which existed at the time of entering into this contract and at the time when it became impossible of performance.

B. THE CONSTRUCTION OF THE ILLINOIS STATUTE REQUIRING ADEQUATE, SAFE WATER SUPPLY BY MUNICIPALITIES AND OTHER SUPPLIERS DOES NOT CONSTITUTE AN UNCONSTITUTIONAL INTERPRETATION OF THAT STATUTE.

Petitioner seeks to convince the court that the Illinois courts have made an unconstitutional interpretation of the statute affecting public water supplies (Appendix C, page 13A and following of the Petition) and particularly with Section 121G thereof (Petition 15A) by inferring that despite the existence of a contract to use Robbins water exclusively, Midlothian was required to first comply with the statute and when the volume of water coming from Robbins did not permit such compliance, to seek other sources and to seek a declaratory judgment that it was not bound to use Robbins water exclusively.

Both of the parties hereto are creatures of the Illinois legislature. That legislature could dissolve either or both of these municipal corporations; that legislature could

also impose upon either or both duties to provide safe and adequate supplies of water for their inhabitants.

The Fourteenth Amendment cannot be invoked by a municipal corporation against the legislature which created it, *Worcester* v. *Worcester Consolidated Street R. Co.*, 196 U. S. 539, 25 Supreme Court, 327; *Risty* v. *Chicago R. I. & P. Ry. Co.*, 270 U.S. 378, 46 Supreme Court 237.

As stated in this latter case, (Page 241,)

> "The power of the state and its agencies over municipal corporations within its territory is not restrained by the provisions of the Fourteenth Amendment" (citing cases).

C. EVEN IF THIS HAD BEEN A MERITORIOUS CLAIM OF VIOLATION OF CONSTITUTIONAL RIGHTS SINCE IT IS RAISED FOR THE FIRST TIME AFTER A FINAL DECISION IN ILLINOIS COURTS OF REVIEW IT SHOULD NOT BE CONSIDERED.

The Petitioner seeks to establish jurisdiction for certiorari in this case despite the lack of a timely raising of the question of "due process and equal protection" on the authority of *Herndon* v. *State of Georgia,* 295 U.S. 441, 55 Supreme Court, 794 (Petition Page 11). An examination of the quotation contained therein discloses that the court was there considering a contention of an unsuccessful litigant that a constitutional question raised on a Petition for Rehearing was timely because the ruling of the state court was not anticipated.

An examination of the case discloses that it involved the question of whether a statute of Georgia contravened the due process law. The Court held that the Petitioner should have anticipated the ruling just as the Petitioner here should have known the law of Illinois as applied to the facts of its case and if it thought such law was

contrary to due process should have raised the question at an earlier time.

In this case the Petitioner has had ample opportunity to raise any and all questions long prior to the time when the denial of due process claim was raised. It filed an Answer to the Complaint in this case; (Record 28) Objections to the Master's Report; (Record 88-95) which were then argued before the Chancellor as (R 36) Exceptions to the Master's Report; Brief in the Appellate Court; a Petition for Rehearing; an Amended Petition for Rehearing; an Amendment to the Amended Petition for Rehearing; a Reply Brief (Appendix B to this brief being a copy of Appellate Court Docket) and then after the final decision in the Appellate Court, a Petition for Leave to Appeal to the Supreme Court. (Appendix C this brief) It was only *after* a denial of this Petition, which was the ninth opportunity for asserting its legal rights, and the final one permitted, under the rules of practice, that the Petitioner first raised a contention of denial of due process or equal protection.

The law which existed in 1953 at the time of entering into the contract, and in 1964 at the time of this trial is no different than the law in 1968, at the time this Petition is being presented.

We submit that the Complaint of the Petitioner as to abuse of his constitutional rights, if true, should have been asserted long prior to 1968 and that it is an imposition on the court to assert them at this time. *Bloeth* v. *State of New York,* 82 Supreme Court, 661.

CONCLUSION

Both of the parties to this litigation are artificial creatures, being municipal corporations in the State of Illinois, and as such they are separate entities from the citizens living within their boundaries and have no individual stockholders who will stand to profit or lose from the terms of this contract. In each village, however, are persons, living natural creatures both negro and caucasian, whose rights to one of the necessities of life, an adequate supply of water, is being interfered with by the stubbornness of the present officials of the petitioning village who insist on keeping the citizens of both villages limited in the water available to them by continuing to insist that a 12 inch water main planned to supply approximately 50% of the people which it is now trying to serve should continue to be the sole source of water supply for both villages.

It is submitted that far from interfering with constitutional rights, the effect of the Illinois court's decision was an emancipation of the citizens of these two villages from the shackles imposed on both by the difference between facts as they existed in 1953 and as they exist today.

The Court is requested to recognize the legal precedents of Illinois as applied to these facts and take prompt action to make it possible for the Village of Midlothian to plan an adequate supply of water for the citizens living in that village in 1968. This can be accomplished by a prompt denial of Robbins' Petition for Certiorari.

Respectfully submitted,

ELBERT F. ELMORE
ROBERT J. NOLAN

APPENDIX A

Illinois Revised Statutes, Chapter 110A, Sections 315 and 317:

315. (Supreme Court Rule 315). Leave to Appeal from the Appellate Court to the Supreme Court

(a) Petition for Leave to Appeal; Grounds. A petition for leave to appeal to the Supreme Court from the Appellate Court may be filed in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion.

317. (Supreme Court Rule 317). Appeals from the Appellate Court to the Supreme Court as of Right

Appeals from the Appellate Court shall lie to the Supreme Court as a matter of right in cases in which a question under the constitution of the United States or of this state arises for the first time in and as a result of the action of the Appellate Court.

APPENDIX B

CLERK'S DOCKET AND FEE BOOK, APPELLATE COURT, FIRST DISTRICT, ILLINOIS

Term 19 No.
Term 19 No.
Term 19 No.

General No. 50849

ORAL 4th DIVISION

N. Cox, Ming & Black
Appellant's Attorney

Village of Hillsboro, a Ill. Mun. Corp. Appellee

vs.

Village of Robbins, an Ill. Mun. Corp. Appellant

Mid Prim Ors. No. 64CH 927
Mid Prim Judge Cornelius J. Harrington
Appeal from Circuit Court of Cook County

Robert F. Hanley & Robert J. Hanley
Appellee's Attorney

Praecipe or Notice for leave to appeal filed		19	Appearance filed	Oct. 8	1965
Writ of error issued		19	Additional record filed		19
Notice of granting leave to appeal issued		19	Additional abstracts and Notice filed	Dec. 5,	19 66
Motion for supersedeas filed		19	Briefs and Notice filed	Dec. 5,	1966
Supersedeas bond filed		19	Answer and Notice to petition filed		19
Supersedeas issued		19	Additional or reply briefs and Notice filed		19
Scire facias issued		19	Cross-errors filed		19
Scire facias returned	filed	19	Exhibits		19
Alias Scire facias issued		19	Judgment entered of record		19
Alias Scire facias returned	filed	19			19
Affidavit of non-resident filed		19			19
Notice for publication issued		19			19
Notice of filing Record	filed	Sept. 23, 19 65	Docket fee paid by	Date	$
Certificate of publication filed		19	Appearance fee paid by Appellee	Date 10/7/65	$ 15.00
2nd Record, cover-and-leaves filed		Sept. 24, 19 65	For appellant's transcript from court below		$
Additional record filed		19	For appellee's transcript from court below		$
Petition and Notice for leave to appeal filed		19	For printing abstracts for appellants		$
Abstracts and Notice filed		Nov 7 19 66	For printing abstracts for appellees		$
Briefs and Notice filed		Nov 7 1966	Sheriff's fees on scire facias		$
Additional or reply briefs and Notice filed		Dec 20 1966	Sheriff's fees on execution		$
			Printer's fees on publication		$
Exhibits		19			
Copy of opinion to Mr. Cox, Ming & Black		19	Copy of opinion to Robert F. Hanley		19

SEP 30 1965 Assigned to Fourth Division

Nov. 15/65 - 12 mo. appell. & cy. time to ... Dec. 5/65 & ... def. - Pltf ... the appeal ... allowed ... 30 days ... Defendant's ... Pltf ... the appeal.

July 7/66 Appeal dismissed

Jan 3 1966 Mo. appell for ... to file amended petition for rehearing allowed

Aug 1/66 Mo appell to file amendment to an amended petition for rehearing allowed

Oct. 7/66 On mo Appell abst & Blf to Dec. 5/66 is ordered by the Court that Appell file abst & Blf by Nov 7/66 Appellee file Brief by Dec 5/66 & Appell file reply Brief by Dec 20/66 allowed.

March 14/67 On mo Appellee to dismiss the appeal denied (see opinion)

March 14/67 Affirmed

Petition and petition for rehearing filed		19 66	Petition and petition for rehearing filed		19
Rehearing		19	Rehearing		19
Briefs on rehearing filed		19	Briefs on rehearing filed		19
Affdvt. of Int. for Lv. to appeal filed		19	Affdvt. of Int. for Lv. to appeal filed		19
Procedendo and order issued		19	Procedendo and order issued Nolan	Apr. 5	19 67
Execution No.	issued	19	Execution No.	issued	19
Alias Execution No.	issued	19	Alias Execution No.	issued	19
Certificate of filing pet. for leave to appeal to Sup. Ct. filed		19	Certificate of filing pet. for leave to appeal to Sup. Ct. filed		19
Appellate record to		19	Appellate record to		19
Court record to Supreme Court		19	Court record to Supreme Court		19
Order of Supreme Court		19	Order of Supreme Court		19

APPENDIX C

ON CERTIORARI FROM
THE SUPREME COURT OF ILLINOIS

Village of Midlothian, a municipal corporation, Respondent No. 40653 vs. Village of Robbins, a municipal corporation, Petitioner	Petition for Leave to Appeal from Appellate Court First District 50849

INDEX OF DOCUMENTS TRANSMITTED TO THE SUPREME COURT OF THE UNITED STATES

1. Petition for leave to appeal filed May 5, 1967.
2. Motion by respondent that petition for leave to appeal be dismissed filed May 10, 1967.
3. Objections to the motion by respondent that petition for leave to appeal be dismissed filed May 12, 1967.
4. Order entered May 18, 1967, denying the motion by respondent that petition for leave to appeal be dismissed.
5. Order filed May 25, 1967, ordering that respondent may file an answer to petition for leave to appeal on or before June 5, 1967, etc.
6. Answer to petition for leave to appeal filed June 5, 1967.
7. Mandate of the Supreme Court denying petition for leave to appeal September 26, 1967, issued on October 18, 1967.

8. Motion by petitioner for reconsideration of order denying petition for leave to appeal filed October 17, 1967.

9. Order entered November 15, 1967, denying the motion by petitioner for reconsideration of order denying petition for leave to appeal.

10. Certification.